

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

TERESA EVANS,

Plaintiff,

v.

Civil Action No: 2:17-cv-03262

**LEAR CAPITAL, INC. a corporation and
Its affiliates; SELF DIRECTED IRA
SERVICES, INC,**

Defendants.

NOTICE OF REMOVAL

Defendants, Lear Capital, Inc. (“Lear”) and Self Directed IRA Services, Inc. (“SDIRA”), by and through their undersigned counsel, remove the above-captioned case from the Circuit Court of Jackson County, West Virginia in which it is now pending, to the United States District Court for the Southern District of West Virginia, Charleston Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. Pursuant to 28 U.S.C. § 1446(a), copies of all the process, pleadings, and orders served upon or received by Lear and SDIRA are attached as Exhibit A. A copy of the docket sheet from the Circuit Court of Jackson County, as of June 14, 2017, is attached as Exhibit B.

As grounds for removal, Lear and SDIRA state:

INTRODUCTION

1. On March 31, 2017, Plaintiff commenced this action in the Circuit Court of Jackson County, West Virginia, by filing a Complaint naming as defendants Lear Capital, Inc. and Self Directed IRA Services, Inc. Plaintiff’s Complaint was assigned Civil Action Number 17-C-31.

2. On April 24, 2017, Plaintiff filed a First Amended Complaint against the same Defendants adding three new counts.

3. On May 15, 2017, service of the Summons and First Amended Complaint was effected upon Lear via the West Virginia Secretary of State's office.

4. On May 24, 2017, service of the Summons and First Amended Complaint was effected upon SDIRA by acceptance of service by counsel for SDIRA.

5. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446 on behalf of Lear and SDIRA. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because the parties are of diverse citizenship and the claims at issue as alleged by Plaintiff exceed the sum of \$75,000, exclusive of interest and costs.

THE COMPLAINT

6. The First Amended Complaint alleges five separate counts arising out of Plaintiff's purchase of precious metals for investment purposes.

7. Plaintiff contends that she lost "well over \$100,000" and suffered the loss of use and enjoyment of her money, emotional distress, and other damages. (First Amend. Compl. ¶ 71).

8. As relief, Plaintiff demands compensatory and punitive damages, as well as costs, attorney fees, and pre-judgment and post-judgment interest.

GROUND FOR REMOVAL

9. Plaintiff is a citizen and domiciliary of West Virginia. (First Amend. Compl. ¶ 1).

10. Defendant Lear is a California corporation with its principal place of business also in California.

11. Defendant SDIRA is a Texas corporation with its principal place of business also in Texas.

12. Based on the damages sought, which include compensatory and punitive damages, costs, attorney fees, and pre-judgment and post-judgment interest, the amount in controversy exceeds the sum of \$75,000.¹

¹ Although these damages are sought in the Amended Complaint, Lear and SDIRA do not concede that Plaintiff is entitled to any damages or category of damages, and expressly reserve the right to challenge the recoverability of any category or item of damages claimed by Plaintiff.

13. Because Plaintiff and Defendants are citizens and domiciliaries of different states and because the amount in controversy requirement is satisfied, removal of this case pursuant to 28 U.S.C. § 1441(a) is appropriate based on diversity of citizenship under 28 U.S.C. § 1332. In so removing, Lear and SDIRA do not waive their rights relative to venue and jurisdiction.

TIMELINESS OF REMOVAL

14. Pursuant to 28 U.S.C. § 1446(b)(1), this Notice is timely, it being filed within thirty days of service on Lear and SDIRA.

15. Pursuant to 28 U.S.C. § 1446(d), Lear and SDIRA are providing written notice of this Notice of Removal to Plaintiff and a copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Jackson County.

WHEREFORE, notice is given that this action is removed from the Circuit Court of Jackson County, West Virginia to the United States District Court for the Southern District of West Virginia, Charleston Division.

**LEAR CAPITAL, INC. and
SELF DIRECTED IRA SERVICES, INC.
By Counsel,**

/s/Jeffrey M. Wakefield
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CERTIFICATE OF SERVICE

I, Jeffrey M. Wakefield , counsel for Lear Capital, Inc., do hereby certify that a true and exact copy of Defendants' ***Notice of Removal*** has been served via regular U.S. Mail, on this Wednesday, June 14, 2017 on the following counsel of record:

Marvin W. Masters, Esquire
The Masters Law Firm, LC
181 Summers Street
Charleston, WV 25301-2177
Counsel for Plaintiff

/s/ Jeffrey M. Wakefield
Jeffrey M. Wakefield (WV Bar No. 3894)
Wesley P. Page, Esq. (WV Bar No. 10529)